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8 UNITED STATES DISTRICT COURT
9 WESTERN DISTRICT OF WASHINGTON
10 AT TACOMA

11 RICHARD BREES,

12 Plaintiff,

13 v.

14 HMS GLOBAL MARITIME INC, et al.,

15 Defendants.

CASE NO. 3:18-cv-05691-RJB

ORDER GRANTING DEFENDANT
HMS GLOBAL MARITIME, LLC'S
MOTION FOR SUMMARY
JUDGMENT DISMISSING
PLAINTIFF'S CLAIMS

16 THIS MATTER comes before the Court on Defendant HMS Global Maritime, LLC's
17 ("HMS Global") Motion for Summary Judgment Dismissing Plaintiff's Claims. Dkt. 110. The
18 Court is familiar with the motion, all materials filed in support of and in opposition to the
19 motion, and the remainder of the record herein, and it is fully advised. For the reasons set forth
20 below, the Court should grant HMS Global's Motion for Summary Judgment.

21 **I. BACKGROUND & PROCEDURAL HISTORY**

22 This case arises from allegedly unlawful searches conducted by Defendant HMS Ferries,
23 Inc.'s ("HMS Ferry") personnel against Plaintiff when he attempted to board a ferry in his car.
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1 Dkt. 83. Pierce County contracts with HMS Ferries to operate Pierce County's ferry system. Dkt.
2 46, at 2. HMS Global is the parent corporate entity and sole shareholder of HMS Ferries. Dkts.
3 110; and 111. HMS Global is a Delaware corporation; it has no employees or agents in
4 Washington. Dkts. 110; and 111. HMS Ferries manages its own books and accounts and is in the
5 business of managing ferry systems throughout the United States. Dkts. 110; and 111.

6 HMS Global filed the instant Motion for Summary Judgment. Dkt. 110. Plaintiff filed a
7 response brief. Dkt. 143. HMS Global filed a reply brief. Dkt. 147.

8 **II. DISCUSSION**

9 **A. PRO SE STANDARDS**

10 When a plaintiff proceeds pro se, a district court is required to afford plaintiff the benefit
11 of any doubt in ascertaining what claims plaintiff raised in the complaint and argued to the
12 district court. *Alvarez v. Hill*, 518 F.3d 1152, 1158 (9th Cir. 2008), (citing *Morrison v. Hall*, 261
13 F.3d 896, 899 n.2 (9th Cir. 2001)); *see also Karim-Panahi v. Los Angeles Police Dept.*, 839 F.2d
14 621, 623 (9th Cir. 1988) (pleadings of pro se civil rights plaintiff to be construed liberally,
15 affording plaintiff benefit of any doubt).

16 Because Plaintiff filed this complaint pro se, the court has construed the pleadings
17 liberally and has afforded Plaintiff the benefit of any doubt. *See Karim-Panahi*, 839 F.2d at 623.
18 However, "[p]ro se litigants in the ordinary civil case should not be treated more favorably than
19 parties with attorneys of record." *Jacobsen v. Filler*, 790 F.2d 1362, 1364 (9th Cir. 1986).

20 **B. SUMMARY JUDGMENT STANDARD**

21 Summary judgment is proper only if the pleadings, the discovery and disclosure materials
22 on file, and any affidavits show that there is no genuine issue as to any material fact and that the
23 movant is entitled to judgment as a matter of law. Fed. R. Civ. P. 56(c). The moving party is
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1 entitled to judgment as a matter of law when the nonmoving party fails to make a sufficient
2 showing on an essential element of a claim in the case on which the nonmoving party has the
3 burden of proof. *Celotex Corp. v. Catrett*, 477 U.S. 317, 323 (1985). There is no genuine issue of
4 fact for trial where the record, taken as a whole, could not lead a rational trier of fact to find for
5 the nonmoving party. *Matsushita Elec. Indus. Co. v. Zenith Radio Corp.*, 475 U.S. 574, 586
6 (1986) (nonmoving party must present specific, significant probative evidence, not simply “some
7 metaphysical doubt.”). *See also* Fed. R. Civ. P. 56(d). Conversely, a genuine dispute over a
8 material fact exists if there is sufficient evidence supporting the claimed factual dispute,
9 requiring a judge or jury to resolve the differing versions of the truth. *Anderson v. Liberty Lobby,*
10 *Inc.*, 477 U.S. 242, 253 (1986); *T.W. Elec. Service Inc. v. Pacific Electrical Contractors*
11 *Association*, 809 F.2d 626, 630 (9th Cir. 1987).

12 The determination of the existence of a material fact is often a close question. The court
13 must consider the substantive evidentiary burden that the nonmoving party must meet at trial –
14 e.g., a preponderance of the evidence in most civil cases. *Anderson*, 477 U.S. at 254, *T.W. Elect.*
15 *Service Inc.*, 809 F.2d at 630. The court must resolve any factual issues of controversy in favor
16 of the nonmoving party only when the facts specifically attested by that party contradict facts
17 specifically attested by the moving party. The nonmoving party may not merely state that it will
18 discredit the moving party’s evidence at trial, in the hopes that evidence can be developed at trial
19 to support the claim. *T.W. Elect. Service Inc.*, 809 F.2d at 630 (relying on *Anderson, supra*).
20 Conclusory, non-specific statements in affidavits are not sufficient, and “missing facts” will not
21 be “presumed.” *Lujan v. National Wildlife Federation*, 497 U.S. 871, 888–89 (1990).

- Defendant HMS Global Maritime, LLC is **DISMISSED** from the case.

The Clerk is directed to send uncertified copies of this Order to all counsel of record and to any party appearing *pro se* at said party's last known address.

Dated this 6th day of January, 2020.

A handwritten signature in black ink, reading "Robert J. Bryan", written over a horizontal line.

ROBERT J. BRYAN
United States District Judge